

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Joint Petition of Qwest, Bellsouth and SBC)	WC Docket No. 03-189
for Expedited Forbearance from the)	
Commission's Current Pricing Rules for)	
the Unbundled Network Element Platform)	

In the Matter of)	
)	
Petition for Forbearance from)	WC Docket No. 03-157
the Current Pricing Rules for)	
the Unbundled Network Element Platform)	
)	

**REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
ON JOINT PETITION FOR EXPEDITED FORBEARANCE**

Pursuant to the Public Notice released August 18, 2003,¹ the National Association of State Utility Consumer Advocates ("NASUCA")² submitted comments opposing the Joint Petition for Expedited Forbearance ("Joint Petition") filed on July 31, 2003 by Qwest Corporation, Bellsouth Telecommunications, Inc. and SBC Communications, Inc., (hereinafter "Joint Petitioners"). In these reply comments, NASUCA again respectfully requests that the Commission deny the Joint Petition.³

¹ Public Notice, DA 03-2679 (rel. August 18, 2003) ("Public Notice").

² NASUCA is an association of 43 consumer advocates in jurisdictions including 40 states and the District of Columbia. NASUCA's members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts.

³ Comments were filed by A+ American Discount Telecom, LLC and 13 other parties; ACS of Anchorage, Inc. ("ACS"); the Arizona Corporation Commission; AT&T Corp.; Florida Public Service Commission; MCI; Navigator Communications, LLC.; New Jersey Division of the Ratepayer Advocate; New York State Department of Public Service (resubmitting those filed in 03-157); the PACE Coalition; Sprint

As discussed in NASUCA's initial comments and those of other commenters herein, the Joint Petition seeks "exactly the same relief"⁴ as the Petition for Expedited Forbearance filed on July 1, 2003 by the Verizon telephone companies ("Verizon Petition").⁵ Both Petitions seek forbearance from the application of the total element long run incremental cost ("TELRIC") standard to the unbundled network element platform ("UNE-P") and seek forbearance of the rule of the Federal Communications Commission ("Commission") allowing competitive carriers leasing the UNE-P from incumbent carriers to collect interexchange access charges for the service provided over the UNE-P.

As demonstrated by the vast majority of commenters on the Joint Petition, the Joint Petition should be rejected -- like the Verizon Petition -- because it would be inefficient and a waste of resources to grant the Joint Petition. The Commission's *Triennial Review Order*⁶ made changes to the TELRIC rules⁷ and took steps to limit the availability of the UNE-P.⁸ Further, the Commission's recent Notice of Proposed Rulemaking on the TELRIC rules⁹ will undercut the bases for both Petitions. In addition,

Corporation; Telscape Communications, Inc.; United States Telecom Association ("USTA"); the Verizon telephone companies ("Verizon"); and Z-Tel Communications, Inc. On September 25, 2003, the Joint Petitioners filed a motion for a two-day extension of time to file reply comments.

⁴ Joint Petition at 2.

⁵ *In the Matter of Petition for Forbearance from the Current Pricing Rules for the Unbundled Network Element Platform*, WC Docket No. 03-157, Petition for Expedited Forbearance (filed July 1, 2003).

⁶ *In the Matter of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, et al., Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. August 21, 2003) ("*Triennial Review Order*").

⁷ *Triennial Review Order*, ¶¶ 675-691.

⁸ See, e.g., *Triennial Review Order*, ¶¶ 464, 521.

⁹ *In the Matter of Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service by Incumbent Local Exchange Carriers*, WC Docket No. 03-173, Notice of Proposed Rulemaking, FCC 03-224 (rel. September 15, 2003).

the Joint Petitioners -- like Verizon -- utterly fail to satisfy the requirements necessary for granting forbearance.

The only parties filing comments in support of the Joint Petition were ACS, USTA and Verizon. ACS comments that the relief sought by the Verizon Petition would apply to all ILECs -- adding to the mystery of why the Joint Petitioners bothered to file their petition -- and cites to conditions in Anchorage as support.¹⁰ Yet the local situation in Anchorage provides little support for the national relief sought by Verizon and the Joint Petitioners. USTA's three-paragraph comments also fail to add anything new or valuable. And Verizon merely attached its Petition and its reply comments filed in WC Docket 03-157.¹¹ The absence of credible support reveals the futility of the Joint Petitioners' request for forbearance.

For these reasons, the Commission should deny both the Joint Petition and the Verizon Petition.

Respectfully submitted,

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¹⁰ ACS Comments at 2-5, 5-6.

¹¹ Given that the Joint Petitioners attached the Verizon Petition as the sole support for their Petition, the Verizon Petition is now in the record twice. Repetition does not add to the minimal merit of the Verizon Petition.

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